

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3888 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

SEVANTILAL BABALDAS BHASAR

Versus

DIRECTOR OF AGRICULTURAL MARKETING & RURAL FINANCE

Appearance:

MR SK JHAVERI for Petitioner
MR HL JANI, AGP for Respondent No. 1
MR KS JHAVERI for Respondent No. 2

CORAM : MR.JUSTICE N.J.PANDYA

Date of decision: 27/06/97

ORAL JUDGEMENT

On service, for respondent no.1, learned AGP Mr. Jani appears, and for respondent no.2-Committee, learned Advocate Mr.K.S.Jhaveri appears. They, respectively, waive the service of Rule for the said respondents. With the matter is taken up for final hearing.

While accepting that the service rules operate in

the case of the petitioner as framed by respondent no.2-Committee, it is provided that the retirement age to be 60 years. However, on the strength of a circular dated 19/23-4-1997, at Annexure.A, page no. 12, the Directorate-respondent no.1 has come with the instruction that, the employees of the Committee have been declared as public servants and which obviously is for the purpose of Indian Penal Code, the age of retirement should not be more than 58 years.

Patently, this is a wrong reading of the situation as sought to be made by the respondent no.1. Firstly, no kind of declaration for all purposes or for any purpose is made by the Government to alter the government service conditions. Incidentally, the aforesaid condition which amongst other things provide for the retirement at the age of 60 years which has been done by the office of the respondent no.1. It is that very office, now, coming out with the reading of the situation as stated above and that too, ignoring the fact that, the declaration of the Committee employees to be "public servants" for the purpose of Indian Penal Code alone.

Obviously, therefore, the attempt made to curtail the age of retirement from 60 years to 58 years by the respondent no.1, as per Annexure.A would fail. The petition is, therefore, allowed. The impugned Circular at Annexure.A is set aside. Rule is made absolute accordingly.

sreeram